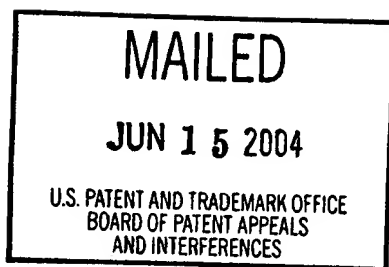


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte JERRY H. CHISNELL

Appeal No. 2004-1326
Application No. 09/393,482

ON BRIEF

Before KIMLIN, GARRIS, and PAK, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1-5, 11 and 12. The only other claims in the application which are claims 6-10, stand allowed.

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The subject matter on appeal relates to a reinforced hose coupling. With reference to the appellant's drawing, the coupling 10 comprises an inner sleeve 40, a hose 30, an outer sleeve 60 having at least one depression 66 therein formed by a crimping operation and at least one reinforcing ring 20. Further details of this appealed subject matter are set forth in representative independent claim 1, of which a copy is appended to this decision.

The reference set forth below is relied upon by the examiner in the § 102 rejection before us:

Joseph et al. (Joseph) 5,387,016 Feb. 07, 1995

All of the appealed claims stand rejected under 35 U.S.C. § 102(b) as being anticipated by Joseph.¹

Rather than reiterate the respective positions advocated by the appellant and by the examiner, we refer to the brief and to the answer respectively for a complete exposition thereof.

¹ The dependent claims on appeal have not been grouped and argued separately from their parent independent claim 1 (see pages 9-11 of the brief). Accordingly, these dependent claims will stand or fall pursuant to the success or failure of the arguments concerning the appealed independent claims. See 37 CFR 1.192(c)(7)(2002).

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OPINION

For the reasons set forth in the answer and below, we will sustain the rejection before us on this appeal.

It is the appellant's basic position that "the tubular liner (28) [of Joseph] is clearly not structurally arranged as in Appellant's independent claims 1, 11 and 12, i.e. within a predetermined longitudinal extent of at least one depression in the outer sleeve defining an area of peak crimp force, and therefore cannot anticipate Appellant's invention." (brief, page 7). We agree with the examiner, however, that the appealed independent claims do not distinguish over the coupling of Joseph in the manner urged by the appellant.

In this regard, we emphasize that, during examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification. In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Correspondingly, it is well settled that limitations from the specification are not to be read into the claims. Comark Communications, Inc. v. Harris Corp., 156 F.3d 1182, 1186, 48 USPQ2d 1001, 1005 (Fed. Cir., 1998). With these legal principles

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in mind, the deficiency of the appellant's position becomes apparent.

Specifically, it is the appellant's implicit contention that the claim 1 limitation "at least one reinforcing ring positioned . . . within said predetermined longitudinal extent defined by said area of peak crimp force" should be interpreted as requiring that the ring be positioned entirely, rather than partially, "within said predetermined longitudinal extent." Because none of the appellant's claims are so limited, such an interpretation would involve the impermissible practice of reading limitations from the specification into the claims. Comark v. Harris, 156 F.3d at 1186, 48 USPQ2d at 1005 (Fed. Cir., 1998).

From our perspective, it is appropriate to more broadly interpret the independent claims as encompassing an embodiment wherein the reinforcing ring is positioned partially "within said predetermined longitudinal extent defined by said area of peak crimp force" (claim 1). Concerning this point, we stress that the independent claims expressly recite that the area of peak crimp force is defined by the "at least one depression" 66 in the "outer sleeve" 60 (claim 1). Significantly, figure 2 of the appellant's drawing clearly displays reinforcing rings 20 as

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being positioned only partially within the area of depressions 66. It follows that our broader interpretation of the independent claims is reasonable and consistent with the appellant's specification and drawing disclosure. In re Hyatt, 211 F.3d at 1372, 54 USPQ2d at 1667-68 (Fed. Cir. 2000).

The coupling defined by the independent claims on appeal would remain indistinguishable from the coupling of Joseph even if these claims were more narrowly interpreted as requiring the ring to be "positioned . . . [entirely] within said predetermined longitudinal extent defined by said area of peak crimp force" (claim 1). In the context of the appellant's figure 2 embodiment, such an interpretation would require the aforementioned "area of peak crimp force" to extend not just beneath but also longitudinally beyond the location of depression 66 (i.e., since otherwise, the position shown in figure 2 for rings 20 would not be entirely "within said predetermined longitudinal extent defined by said area of peak crimp force"). When this "area of peak crimp force" is considered to extend longitudinally beyond as well as beneath the depressions shown in appellant's figure 2 and in Joseph's figure 3, it is entirely

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reasonable to consider patentee's ring or liner 28 to be positioned entirely within the longitudinal extent defined by the area of peak crimp force as required by the appellant's independent claims.

Stated otherwise, even when more narrowly interpreted as discussed above, the appealed independent claims define a coupling product which is indistinguishable from the coupling product of Joseph with respect to the feature or characteristic under consideration, namely, the ring being positioned entirely within the longitudinal extent defined by the area of peak crimp force. Under these circumstances, it is appropriate to require the appellant to prove that patentee's coupling product does not necessarily or inherently possess the feature or characteristic of being positioned entirely within the aforementioned longitudinal extent. The fairness of so allocating the burden of proof is evidenced by the inability of the Patent and Trademark Office to manufacture products or to obtain and compare prior art products. See In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433-34 (CCPA 1977). On the record before us, the appellant has submitted no such proof.

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In addition to the foregoing, the appellant argues that "the tubular lining (28) in Joseph . . . extends throughout the entire length of engagement and does not provide localized support along said predetermined longitudinal extent defined by said area of peak crimp force as clearly set forth in independent Claims 1, 11 and 12." (brief, page 9).

As previously explained, patentee's liner 28 is positioned in the manner required by the independent claims regardless of whether these claims are interpreted broadly or narrowly. With respect to the independent claim requirement that the "ring provides localized support", we reiterate the examiner's point that patentee's liner 28 unquestionably provides structural rigidity and thus support to body 16 (see the paragraph bridging columns 2 and 3 as well as lines 39-41 in column 4).

Furthermore, this support may be properly considered to be localized in a variety of areas including the depression areas shown in figure 3 of Joseph where the crimp force, and thus the support provided with respect thereto, would be greatest.


For these reasons and those set forth in the answer, we share the examiner's finding that the appellant's independent

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claims do not distinguish over Joseph. Therefore, we hereby sustain the examiner's § 102 rejections of claims 1-5, 11 and 12 as being anticipated by Joseph.

The decision of the examiner is affirmed.

AFFIRMED


EDWARD C. KIMLIN)
Administrative Patent Judge)


BRADLEY R. GARRIS) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
INTERFERENCES)


CHUNG W. PAK)
Administrative Patent Judge)

BRG/vsh

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APPENDIX
Claim 1

1. A reinforced hose coupling defining an area of peak crimp force of a predetermined longitudinal extent, said reinforced hose coupling comprising:

an inner sleeve having a first end, a second end opposite said first end, and a pair of annular upset beads therebetween, said inner sleeve further having an inner diameter and an outer diameter thereon, said outer diameter having at least one projection thereon;

a hose having an inner diameter positioned over said outer diameter of said inner sleeve, said at least one projection of said inner sleeve interlocking with said hose to resist axial movement of said hose relative to said reinforced hose coupling;

an outer sleeve having a terminating end sandwiched between said pair of annular upset beads of said inner sleeve to prevent axial movement relative to said inner sleeve, said outer sleeve further having an inner diameter circumscribing said hose, said inner diameter of said outer sleeve further including at least one depression therein formed by a crimping operation, said at least one depression defining an area of peak crimp force of a predetermined longitudinal extent and interlocking with said hose to further resist axial movement of said hose relative to said reinforced hose coupling; and

at least one reinforcing ring positioned within said inner diameter of said inner sleeve within said predetermined longitudinal extent defined by said area of peak crimp force, whereby said at least one reinforcing ring provides localized support along said predetermined longitudinal extent to resist deformation of said inner sleeve during said crimping operation.